IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8834 of 1995

***For Approval and Signature*:**

HONOURABLE MS. JUSTICE R.M.DOSHIT
&
HON'BLE SMT. JUSTICE ABHILASHA KUMARI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to civil judge ?

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HARIBHAI RANCHHODBHAI SONI & 25 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR PRASHANT G DESAI for Petitioners
MR MENGDE for Respondent(s) : 1 - 2.
MR BR GUPTA for Respondent(s) : 3,

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CORAM : HONOURABLE MS. JUSTICE R.M.DOSHIT
and
HON'BLE SMT. JUSTICE ABHILASHA KUMARI
Date : 30/03/2006

ORAL JUDGMENT **(Per :** *HONOURABLE* **MS. JUSTICE R.M.DOSHIT)**

Mr. Gupta is permitted to place copy of the counter affidavit (pp.65 to 71 on the record.

The petitioners, 26 in number, are the residents of village Moti Khavdi, Taluka-Jamnagar. Several pieces of lands of village Moti Khavdi were required to be acquired under the Land Acquisition Act, 1894 [hereinafter referred to as, "***the Act***"] for setting up of a Marketing Terminal by the Bharat Petroleum Corporation Limited [hereinafter referred to as, "***the Corporation***"}. The preliminary Notification under Section 4 of the Act was issued on 15th February, 1993. The declaration as envisaged by Section 6 of the Act was issued on 15the February, 1994. On 12th December, 1994, the Special Land Acquisition Officer declared his Award as envisaged by Section 11 of the Act. Since then, the petitioners have preferred the present petition in the month of October, 1995 and have challenged the acquisition of their lands on the sole ground that the purpose for which the lands were acquired was not the public purpose.

The petition is contested by the Corporation. Mr. Gupta has submitted that all throughout the acquisition proceeding, the petitioners did not raise any objection whether the purpose for which the lands were acquired was a "*public purpose*" or not. They have allowed the award to be made. They have also received the compensation in

accordance with the award. In the meantime, the marketing terminal proposed to be set up on the acquired lands has also been set-up and has become functional. Mr. Gupta has also submitted that setting up of marketing terminal by a Government Company for storage of its Hydrocarbon products is undoubtedly a public purpose. Challenge to the land acquisition proceeding is, therefore, not sustainable.

It is not disputed that the award has been made in favour of the petitioners and the petitioners have received compensation awarded to them without protest. It is also not in dispute that the proposed marketing terminal has already been set-up and has become functional for more than ten years.

In above view of the matter, the question whether setting up of a marketing terminal is a "*public purpose*" or not has become academic. It need not be decided in the present proceeding.

The petition is dismissed. Rule is *discharged*. The parties shall bear their own cost.

{Miss R.M Doshit, J.}

{Smt. Abhilasha Kumari, J.}

*Prakash**